

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 229456

42

ORIGIN L-03

INFO OCT-01 AF-10 ISO-00 JUSE-00 PER-05 A-01 CPR-02 RSC-01

/023 R

DRAFTED BY L/M/SCA:JABOYD:LMS

APPROVED BY L/M/SCA:KEMALMBORG

JUSTICE:BRISTAU(SUBS)

PPM/LP:WFHIBBS(SUBS)

L/AF:BKHUFFMAN(INFO)

AF/EX:EMCGUIRE

----- 051297

R 211418Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY NIAMEY

LIMITED OFFICIAL USE STATE 229456

E.O. 11652: N/A

TAGS: APER, AFSP, NG

SUBJ: EMBASSY PARTICIPATION IN GON SOCIAL SECURITY SYSTEM

REF: NIAMEY'S OM OF SEPT. 17, 1973

1. DEPT. CANNOT AUTHORIZE SIGNING AGREEMENT TO PROVIDE CERTAIN SOCIAL SECURITY BENEFITS FOR CERTAIN EMPLOYEES OF THE USA IN THE REPUBLIC OF NIGER IN ITS PRESENT FORM GIVEN THE UNCERTAINTY AND MISUNDERSTANDINGS INHERENT IN THE QTE RETROACTIVITY UNQTE QUESTION AS FORMULATED IN THE THIRD AND FOURTH PARAGRAPHS OF THE REF OM.

2. DEPT. AUTHORIZES EMBASSY TO PAY UP TO BUT NO MORE THAN \$500 TO HIRE NIGERIAN LAWYER TO RENDER AN OPINION CONCERNING THE LIABILITY, IF ANY, WHICH THE USG MIGHT OWE TO EMBASSY LOCAL EMPLOYEES FOR SOCIAL SECURITY PAYMENTS FOR PERIODS PRIOR TO THE ENTRY INTO FORCE OF THE SAID AGREEMENT. SAID AUTHORIZATION IS FOR RESEARCH AND ADVICE BY A LAWYER KNOWLEDGEABLE IN NIGERIAN SOCIAL SECURITY

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 229456

LAWS, BUT SUCH AUTHORIZATION IS NOT FOR THE INITIATION OR

DEFENSE OF A LAWSUIT BY OR AGAINST THE USG. IF LITIGATION APPEARS AT ALL POSSIBLE, ADVISE DEPT. IMMEDIATELY SO THAT DEPT. OF JUSTICE MAY RETAIN COUNSEL. DEPT. OF JUSTICE RETAINS THE OPTION OF HIRING COUNSEL OTHER THAN LAWYER HERE AUTHORIZED, AND JUSTICE DOES NOT GRANT PERMISSION FOR LAWYER RETAINED PURSUANT TO THIS AUTHORIZATION TO REPRESENT

USG TO OTHER PARTIES NOR TO WAIVE SOVEREIGN IMMUNITY OF USG.

3. AUTHORIZATION IS GRANTED PURSUANT TO TITLE 22 OF U.S. CODE WHICH STATES THAT THE QTE SECRETARY MAY, WITHOUT REGARD TO SECTIONS 49 AND 314 OF TITLE 5, AUTHORIZE A PRINCIPAL OFFICER TO PROCURE LEGAL SERVICES WHENEVER SUCH SERVICES ARE REQUIRED FOR THE PROTECTION OF THE INTERESTS OF THE GOVERNMENT OR TO ENABLE AN OFFICER OR EMPLOYEE OF THE SERVICE TO CARRY ON HIS WORK EFFICIENTLY. UNQTE

4. DEPT. EMPHASIZES THAT SUCH AUTHORIZATION IS UNIQUE AND IS SOUGHT ONLY FOR THE PURPOSE OF BETTER ASCERTAINING THE LIABILITY WHICH NIGERIAN LAW MAY IMPOSE ON THE USG WITH REGARD TO THE POSSIBILITY OF PAYING SUCH QTE RETROACTIVE UNQTE SOCIAL SECURITY PAYMENTS. DEPT. DESIRES WRITTEN OPINION CITING RELEVANT STATUTES AND CASE LAW INTERPRETING SAME. DEPT. REQUESTS AS WELL THAT INFORMATION BE OBTAINED ON WHETHER OTHER DIPLOMATIC MISSIONS HAVE FACED THIS PROBLEM OF RETROACTIVE SOCIAL SECURITY CONTRIBUTIONS AND IF SO HOW SUCH OTHER MISSIONS HAVE RESOLVED THE MATTER. BY AUTHORIZING EMBASSY TO OBTAIN SUCH A LEGAL OPINION, DEPT. DOES NOT RPT NOT INDICATE IN ANY FASHION NATURE OF FUTURE COURSE OF ACTION. DEPT. IS NOT CERTAIN AT THIS POINT IF SUCH QTE RETROACTIVE UNQTE PAYMENTS WOULD BE AUTHORIZED UNDER U.S. LAW. HOWEVER, IF A CONTINUING OBLIGATION WERE TO BE CLEARLY ESTABLISHED IN LEGAL OPINION HERE REQUESTED, DEPT. WOULD SERIOUSLY ENTERTAIN POSSIBILITY OF MAKING APPROPRIATE PAYMENT PROVIDED THAT THE SUM WERE REASONABLE AND APPROPRIATE SAFEGUARDS WERE ESTABLISHED. DEPT. IS ANXIOUS TO AVOID CIRCUMSTANCE IN WHICH AGREEMENT IS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 229456

ENTERED INTO ON THE BASIS OF MISUNDERSTANDINGS WHICH RESULT IN TURN IN SUBSEQUENT COSTLY LAWSUITS BY EACH LOCAL EMPLOYEE OF EMBASSY AS HE RETIRES. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 21 NOV 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: collinp0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE229456
Document Source: CORE
Document Unique ID: 00
Drafter: JABOYD:LMS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731119/aaaaanxd.tel
Line Count: 110
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: NIAMEY'S OM OF SEPT. 17, 1973
Review Action: RELEASED, APPROVED
Review Authority: collinp0
Review Comment: n/a
Review Content Flags:
Review Date: 10 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10-Jan-2002 by willialc>; APPROVED <07 MAR 2002 by collinp0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EMBASSY PARTICIPATION IN GON SOCIAL SECURITY SYSTEM
TAGS: APER, AFSP, NG
To: NIAMEY
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005